

The Impact of Non-Citizens on Congressional Apportionment
Testimony Prepared for the House Subcommittee On Federalism and the Census
December 6, 2005

by Steven A. Camarota
Director of Research
Center for Immigration Studies
1522 K St. NW, Suite 820
Washington, DC 20005
Phone: (202) 466-8185
fax: (202) 466-8076
center@cis.org
www.cis.org

Introduction

The United States is currently experiencing the largest sustained wave of immigration in its history, with 1.5 million legal and illegal immigrants settling in the country each year. The foreign born or immigrant population stood at over 31 million in the 2000 Census, and the total has grown to 36 million by the end of 2005.¹ There is an unfortunate tendency to view this immigration one dimensionally. Some see immigrants only as workers, other see them as a potential voters, or only the fiscal problem they may create, still others see only possible terrorists. All of these perspectives capture some aspect of immigration. But immigrants are much more than this. Immigrants are not simply things, they are human beings. As a result, their presence in the United States has wide ranging economic, cultural, demographic, national security, and political effects on our country. Whether one thinks the effects of immigration is on balance a net gain or a net loss to the country, the fact remains its impact is very broad and not confined to one area.

This hearing is going to discuss one of the most often overlooked, but nonetheless important, effects they have: on political representation. If you take nothing else away from my testimony, it should be that allowing in people, even as guest workers or just tolerating illegal immigration, has board ranging effects. These effects include such things as the redistribution of House seats. For example, if we take the 11 million illegals already here and grant them temporary status, the Census in 2010 will still count them, and seats will still be apportioned to states based on their presence. On the other hand, if we enforce the law and make most illegals go home, this too will have apportionment consequences in 2010. In our discussion of immigration, therefore, we should not

¹This is based on my analysis of the Annual Social and Economic Supplement of the Current Population Survey done by the Census Bureau in March of 2005, and subsequent Current Population Surveys done with out the March supplement.

compartmentalize its various impacts; instead, we must recognize the broad implications of immigration on virtually every aspect of American life, including apportionment.

Overall Numbers

Number of Non-Citizens in 2000. The 2000 Census showed 18.6 million or almost 60 percent of the foreign born were not U.S. citizens.² It should be noted that figures for the foreign born, including those for citizenship, are from the Census long form, which only about one-sixth percent of the nation's population receives. Of the more than 18 million non-citizens who responded to the Census in 2000, there is widespread agreement that 7 or 8 million were illegal aliens, and 1 to 1.5 million were on long-term temporary visa, such as guest workers and foreign students.³ Non-citizens comprised 6.6 percent of the nation's total population in 2000.

Growth in Non-Citizen Population. Overall, growth in the non-citizen population is the product of new immigration, but this is offset by those green card holders who choose to naturalize, those non-citizens who die, and those who return home. In 1990, there were 11.8 million non-citizens, up from 7 million in the 1980 Census. Thus, during the 1990s the number of non-citizens grew by some 680,000 a year. As a share of the total population, non-citizens increased from 3.1 percent in 1980 to 4.7 percent in 1990 to 6.6 percent in 2000. Data collected by the Census Bureau since 2000 shows that growth in the number of non-citizens has continued to increase. In March of 2005 there were 21.7

²There is some evidence that Hispanic immigrants in particular tend to overstate their citizenship. It is also important to note that although the number of non-citizens in the Census was 18.6, the number in the population used for apportionment was closer to 18.5 million. This is because the population of the District of Columbia and persons overseas are not included in apportionment calculations.

³The INS report estimating 7 million illegals in 2000 with an annual increase of about 500,000 can be found at uscis.gov/graphics/shared/statistics/publications/III_Report_1211.pdf. The Census Bureau estimate of 8 million illegals in 2000 report can be found at www.census.gov/dmd/www/ReportRec2.htm (Appendix A of Report 1 contains the estimates).

million non-citizens in the country and they comprised 7.4 percent of the total population.⁴ Again, this growth reflects continued high rates of new immigration.

Non-citizens over Age 18. For purposes of reapportionment, the Census counts all persons, including those too young to vote. However, in terms of the number of voters per district or per state, the share of the voting-age population that is non-citizen is also relevant. In 2000, some 7.6 percent of the nation's adult population (18 and over) were non-citizen, higher than the 6.6 percent of the total population. In 2005, of the over-18 population, 8.7 percent are not citizens. Most immigrants come as adults, and all children born to immigrants in the United States (even those born to illegal immigrants) are automatically citizens, thus non-citizens comprise a larger share of the 18-and-over population than of the total population. In other words, there are relatively few immigrant children because most children in immigrant families were born here. This means that vote counts in high immigration states and districts will be even lower than one might suspect given the share of the total population that is non-citizen.

Impact On Congressional Apportionment

Non-citizens Have Large Impact. Immigration has a significant effect on the distribution of seats in the U.S. House of Representatives for three reasons. First, seats are apportioned based on each state's total population relative to the rest of the country, including illegal aliens and other non-citizens. This, of course, is the issue at the center of Congresswomen Miller's proposal.

⁴This is based my analysis of the Annual Social and Economic Supplement of the Current Population Survey done by the Census Bureau in March of 2005.

Second, congress has chosen to allow in a large number of legal immigrants and to tolerate wide spread illegal immigration. After the 2000 Census, the average congressional district had roughly 650,000 people. Thus, the more than 18 million non-citizens in the 2000 Census were equal to nearly 29 congressional seats. The third reason is that non-citizens are not evenly distributed throughout the country. In 2000, half of all non-citizens lived in just three states and almost 70 percent live in just six states. States with a large non-citizen population will gain at the expense of states comprised mostly of citizens.

Impact of Non-Citizens on Apportionment In a report entitled, “Remaking the Political Landscape: The Impact of Illegal and Legal Immigration on Congressional Apportionment,” published by the Center for Immigration Studies in October of 2003, we calculated the impact of non-citizens on the distribution of seats in the House.⁵ Overall we found that the presence of non-citizens caused a total of nine seats to change hands. Indiana, Michigan, Mississippi, Oklahoma, Pennsylvania, and Wisconsin each lost a seat that they had prior to the 2000 Census while Montana, Kentucky and Utah each failed to gain a seat they otherwise would have gained, but for the presences non-citizens in other states. Of the nine seats redistributed by non-citizens, 6 went to California, while Texas, New York and Florida each gained a seat and New York retained a seat it otherwise would have lost. Analysis of this kind is very straightforward, involving a simple calculation of the apportionment of seats to states with non-citizens included and then without them. Other researchers have come to the same conclusion.⁶

Impact of Illegal Aliens In our 2003 apportionment study we also tried to estimate the impact of illegal aliens by themselves. The former INS has estimated the size and state distribution of illegals who responded to the Census, and we used those figures to

⁵Those wanting a more detailed explanation of our methodology should read the entire report which can be found at www.cis.org/articles/2003/back1403.html.

⁶These results are the same as those obtained by Marta Tienda in her 2002 article in *Demography* entitled “Demography and the Social Contract,” pages 587-616.

estimate their impact on the distribution of House seats. We found that of the nine states that lost seats due to non-citizens, four were the result of illegals. This makes perfect sense because 40 to 45 percent of non-citizens are illegal aliens. Indiana, Michigan, and Mississippi each lost one seat in the House and Montana failed to gain a seat it otherwise would have gained because of illegal aliens in other states.

Impact on Electoral College Immigration and the resulting non-citizen population not only redistributes seats in the House, it has the same effect on presidential elections because the apportionment of the Electoral College is based on the same basic calculations as congressional delegations. Thus immigration policy and the resulting large non-citizen population it produces impacts the distribution of political influence both in Congress and in the Executive.

States That Lost Did Not Decline in Population One common mistake is to think of the states that lost seats as losing population. It is very important to understand that the states that lost a seat due to the presence of non-citizens in other states are not declining in population. The population of the four states that lost seats due to illegals increased 1.6 million in the 1990s, and the population of the five states that lost a seat because of other non-citizens increased 2 million. However, immigration caused the population of other states to grow even faster.

States and Districts With Many Non-citizens

Immigrant-induced Reapportionment One way in which immigrant-induced reapportionment is different from reapportionment caused when natives relocate to other states is that immigration takes away representation from states composed almost entirely of U.S. citizens so that new districts can be created in states with large numbers of non-citizens. Again, I think this is the central concern behind Congresswoman Miller proposal. In the 9 states that lost a seat because of the presences of non-citizens, only 1 in 50 residents was not a U.S. citizens in 2000. In contrast, one in seven residents is a non-

citizen in California, which picked up six of the nine seats redistributed by non-citizens. And 1 in 10 residents is a non-citizen in New York, Texas and Florida.

As a result, it often takes relatively few votes to win a district in some high immigration states. Our study of reapportionment found that in 2002, it took 101,000 votes to win the typical House race in the nine states that lost a seat because of non-citizens; in contrast it took only 68,000 votes to win the average district in California, and 67,000 to win the average district in Texas, and just 81,000 votes to win the typical district in New York. The political distortions created by non-citizens are even more pronounced in some districts. For example, 43 percent of the population in California's immigrant-heavy 31st district are not U.S. citizens, and in the 34th district, its 38 percent. In Florida's 21st district 28 percent of the population are not American citizens; in New York's 12th district it's 23 percent; and in Texas' 29th district its 22 percent.⁷ The large number of non-citizens would seem to create real tension with the principle of "one man one vote" because it now takes so few votes to win a congressional seat in many high immigration states. As already indicated, it takes about 100,000 voters to win the typical congressional race in the states that lost a seat due to the non-citizens. In contrast, it took less than 33,000 votes to win the 34rd district in California and only 34,000 to win the 31st district in 2002. The 12th district of New York took only 42,000 votes to win. Allowing in enormous numbers of immigrants has created a situation in which the votes of American citizens living in low-immigration states and districts count much less than that the votes of citizens living in high immigration districts.

Practical Issues to Consider

Can Non-citizens Be Excluded? Putting aside the legal and constitutional issues surrounding non-citizens and apportionment, which I will leave to others, there are practical issues to consider. For one thing, if we are to exclude non-citizens it would

⁷These figures come from the Census Bureau's American Community survey collected in 2002. The results can be found at www.census.gov/acs/www/Products/index.htm.

require Congress to instruct the Census Bureau to significantly change the way the Census itself is administered. The citizenship question is part of the Census “long form” that is received by only one-sixth of the population. This question would have to move to the short form in order to exclude non-citizens. There is also the question of how accurate respondents fill out the Census. Accuracy may become a much larger issue if persons are going to be excluded from apportionment counts based on their answers, which is not the case now. It should be noted that while there is some evidence that immigrants sometimes say they are citizens when in fact they are not, the overall number of citizens seems to be relatively accurate in the Census, though for some groups of immigrants this is less true.

Can Illegal Aliens Be Excluded? Excluding only illegal aliens from apportionment while perhaps politically popular and appealing from a fairness point of view, would be dramatically more difficult than excluding all non-citizens. The INS and Census Bureau and other outside researchers estimate the number of illegal aliens by comparing the demographic characteristics of those responding to the Census with administrative data on legal admissions. While such methods produce reasonably accurate estimates of the illegal population overall, they do not definitively identify individual illegal aliens in the Census. Any effort to pick out specific individuals are only highly educated guesses, that while useful to demographers and even policy makers, would almost certainly not pass constitutional muster. It is possible to simply ask all respondents if they are illegal aliens. While some may answer honestly, it seems certain that many if not most illegals would probably not identify themselves as such.

Encouraging Naturalization Is Helpful, But No Solution. One potential solution to the problem of citizens losing representation is to encourage those who are eligible for citizenship to naturalize. Of course, such efforts would not change the fact that low immigration states are losing political power. Moreover, even the most optimistic assumption about the impact of efforts to increase citizenship would still leave an enormous number of non-citizens. Illegal aliens are not eligible for citizenship, nor are

persons on long-term temporary visa. As long as one million or more new legal immigrants are allowed to enter each year, the non-citizen population will continue to be very large. One study found that if every single eligible immigrant naturalized, there would still be roughly 15 million non-citizens (illegal aliens, legal immigrants, and long-term visitors) in 2002.⁸ As long as the level of legal and illegal immigration remain at record levels, American citizens in low immigration areas and states will continue to lose representation, even if naturalization rates increased dramatically.

Non-citizen and Apportionment Is Part of The Immigration Debate

It should be obvious that a large non-citizen population is an unavoidable product of large scale legal immigration (both permanent and temporary) and widespread toleration of illegal immigration. Because family relationships and existing cultural ties determine where immigrants go, changes in immigrant settlement pattern happen only slowly. Thus non-citizens will continue to cause a significant redistribution of seats in the House. While outside our discussion here, non-citizens have the same impact at the state and local level as well.

Rather than focus on just the impact of non-citizens on apportionment, it would

⁸A report from the Urban Institute found that in 2002 there were an estimated 11 naturalized citizens and 8 million additional individuals who were eligible to naturalized out of the total foreign born population estimated by the Institute at 34 million. The entire report can be found at www.urban.org/UploadedPDF/310847_trends_in_naturalization.pdf.

make more sense to incorporate this issue into the overall immigration debate. Thus when thinking about a guestworker program, for example, advocates of allowing illegals to stay need to understand that this decision will have a significant impact on apportionment in 2010. This fact by itself does not mean that a guestworker program is necessarily a bad or good idea. But it does mean that a guestworker program has consequences that can only be seen with if we look beyond immigrants simply as workers. Whatever one may think of the overall costs and benefits of immigration, it should be obvious that our decisions about immigration need to take account of many issues, including, apportionment and political representation.